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UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

KONINKLIJKE PHILIPS N.V., et al.,

Plaintiffs, Civil Action
No. 14-12298-DJC

V.

WANGS ALLIANCE CORPORATION, December 13, 2016
1:44 p.m.

Defendant.

TRANSCRIPT OF STATUS CONFERENCE
BEFORE THE HONORABLE DENISE J. CASPER

UNITED STATES DISTRICT COURT
JOHN J. MOAKLEY U.S. COURTHOUSE
1 COURTHOUSE WAY
BOSTON, MA 02210

DEBRA M. JOYCE, RMR, CRR, FCRR
Official Court Reporter
John J. Moakley U.S. Courthouse
1 Courthouse Way, Room 5204
Boston, MA 02210
joycedebra@gmail.com

1 APPEARANCES:

2 FOR THE PLAINTIFFS:

3 C. BRANDON RASH, ESQ.

CARA LASSWELL, ESQ.

4 Finnegan, Henderson, Farabow, Garrett & Dunner, LLP

901 New York Avenue, N.W.

5 Washington, DC 20001

202-408-4475

6 FOR THE DEFENDANT:

7 DAVID C. RADULESCU, ESQ.

8 TIGRAN VARDANIAN, ESQ.

Radulescu LLP

9 Empire State Building

350 Fifth Avenue, Suite 6910

10 New York, NY 10118

646-502-5950

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P R O C E E D I N G S

(The following proceedings were held in open court before the Honorable Denise J. Casper, United States District Judge, United States District Court, District of Massachusetts, at the John J. Moakley United States Courthouse, 1 Courthouse Way, Boston, Massachusetts, on December 13, 2016.)

THE CLERK: Court is in session. Please be seated.

Civil action 14-12298, Philips v. Wangs Alliance.

Would counsel please state your name for the record.

01:45 10 THE COURT: Counsel?

11 MR. RASH: I'm sorry. Brandon Rash from Finnegan on
12 behalf of the Philips plaintiffs, and with me is my colleague
13 Cara Lasswell.

14 THE COURT: Counsel, if you can just stand. Thank
15 you.

16 MR. RASH: I'm sorry.

17 THE COURT: Counsel.

18 MS. LASSWELL: Good afternoon, your Honor. My name is
19 Cara Lasswell.

01:45 20 THE COURT: Counsel.

21 MR. RADULESCU: Good afternoon, your Honor. David
22 Radulescu on behalf of Wangs Alliance Corporation. Today with
23 me is Tigran Vardanian as well.

24 MR. VARDANIAN: Good afternoon, your Honor.

25 THE COURT: Good afternoon.

1 Counsel, I know we're here for a status conference. I
2 did receive and review the last status report that I think was
3 filed the middle of last month.

4 Counsel, is there any further update about the PTAB
5 proceedings?

6 MR. RASH: Yes, your Honor. Again, Brandon Rash on
7 behalf of the Philips plaintiffs.

8 On November 23rd, the PTO did, in fact, issue final
9 written decisions in the proceedings.

01:46 10 There were eight patents-in-suit. One of the patents,
11 there was no IPR proceeding. For the remaining seven, the
12 court affirmed the patentability of all the asserted claims for
13 four of the patents. The PTO affirmed at least some of the
14 challenged claims in two other patents. And then there was one
15 patent where the PTO invalidated two -- the two asserted claims
16 in that patent.

17 What Philips proposes is that we are willing to
18 withdraw that one patent with no asserted claims and proceed on
19 the seven of eight patents that are still standing after the
01:46 20 IPRs.

21 THE COURT: Okay.

22 Okay. Thank you.

23 MR. RASH: I believe that we're in agreement that the
24 case will proceed. There may be a disagreement as to how to
25 proceed. We did talk about that before the hearing today.

1 What Philips would propose -- the parties had agreed
2 to a schedule at the beginning of the case. That was in docket
3 entry 20, I believe Appendix C. The Court had agreed to that
4 schedule up to the claim construction hearing.

5 THE COURT: Okay.

6 Counsel, let me -- what was it, 20?

7 MR. RASH: Docket entry 20, Appendix C.

8 THE COURT: Ms. Hourihan, can you print that out?

9 THE CLERK: Sure.

01:47 10 THE COURT: Counsel.

11 MR. RASH: Yes, your Honor.

12 So the Court had accepted that schedule up to the
13 claim construction hearing. We did not have any schedule after
14 the claim construction order. Philips would ask that we -- the
15 Court adopt the remaining schedule that is keyed from the claim
16 construction order as the parties had agreed.

17 There is two issues with respect to proceeding that we
18 wanted to raise. One is with respect to claim construction. I
19 believe we have a disagreement on how to proceed there.

01:48 20 Philips would propose that we submit a notice that provides
21 your Honor with the final written decisions in the IPRs which
22 will provide you with the positions of the PTO on the claim
23 terms in dispute. We also would be happy to prepare a joint
24 statement with WAC that identifies each parties' position and
25 the board's position on the disputed terms.

1 I believe the disagreement comes with respect to
2 additional briefing. Philips believes that there should be no
3 additional briefing on claim construction. We've already
4 briefed the issues fully in this case. We briefed them in the
5 form of formal briefing, opening and responses. The briefing
6 was effectively redone in the demonstratives. If you recall,
7 your Honor, there were new claim constructions, new arguments,
8 and new case law that was cited by WAC in the demonstratives,
9 which resulted in additional briefing in the form of responsive
01:49 10 rebuttals. And then we briefed the issues again in the form of
11 a notice of additional case law that was essentially ten new
12 pages of briefing. And so Philips takes the position that
13 we're done on briefing with respect to the terms that are in
14 dispute in the litigation.

15 There are also additional terms that were construed in
16 the IPR proceedings. Those disputes arose in the context of
17 those IPR proceedings, and we don't know -- we just spoke about
18 this before the hearing -- so it's not clear whether they're
19 going to be pertinent to this proceeding. WAC is, of course,
01:50 20 estopped from raising the same arguments that were raised in
21 the IPR proceeding or any ground that reasonably could have
22 been raised. And so we don't expect those same issues to arise
23 in this proceeding. And, therefore, to the extent there are
24 additional terms that need to be construed, we would propose
25 doing that at the summary judgment stage. That's not uncommon

1 in patent cases. To the extent there's one or two terms that
2 come up in the context of a specific infringement argument, for
3 example, then we can address it at that time.

4 THE COURT: Counsel, anything else from Philips'
5 position at this point?

6 MR. RASH: Your Honor, I would also like to just point
7 out there are a few pending motions before the Court.

8 THE COURT: And I just pulled up the docket while you
9 were speaking, counsel.

01:51 10 MR. RASH: Okay.

11 The three pending motions -- there's a Philips motion
12 to compel discovery, that's docket entry 48. As part of that
13 motion to compel, there was a brief that WAC filed, a Notice of
14 Additional Facts, that's docket entry 140. And Philips
15 responded to that at docket entry 150 with a motion to strike
16 or respond to that. So the docket entry 150 and docket entry
17 43 are actually pending before the Court.

18 And then also there's a docket entry 73, that's WAC's
19 motion to amend their counterclaims, that is also pending.

01:52 20 THE COURT: Okay.

21 MR. RASH: That is all, your Honor.

22 THE COURT: Thank you.

23 Counsel, I'll hear you.

24 MR. RADULESCU: Good afternoon, your Honor.

25 THE COURT: Good afternoon.

1 MR. RADULESCU: I'll try to sort of follow the order
2 that our colleague argued.

3 So on the IPR decisions -- there were six IPRs that
4 were instituted. And one way to look at I think it is one and
5 a half of the patents were invalidated, and the remaining four
6 and a half are still alive. That would be another
7 characterization of, I think, what happened in connection with
8 the six IPRs that were instituted.

9 There are two additional patents that are the subject
01:53 10 of the complaint, because there's a total of eight patents.
11 One of them was not the subject of any petition for IPR, a
12 second one was the subject of a petition, but that was denied.
13 Okay. So that's the status of the eight patents and the six
14 IPRs that took place over the past year. And I think from
15 there we can go to the schedule. And we did take a look at
16 that schedule at Docket 20, and I think we have a couple
17 reactions to it.

18 First of all, I think it was done at a time in this
19 case -- and I think it was before Judge O'Toole, who, I'm sure,
01:54 20 that schedule was negotiated in light of what Judge O'Toole
21 would typically do or typically evaluate with respect to a
22 patent case. That's one comment.

23 The second comment is there is, in fact, some items in
24 it that were disputed even after the Markman hearing. In
25 connection -- for example, I think with respect to how

1 discovery would proceed, whether there would be a sequence of
2 fact discovery and damages. And our overall suggestion with
3 respect to the schedule is for us to work out what you're going
4 to do with claim construction and Markman -- and I'll get to
5 that briefly -- and let's focus on that for the next couple
6 months, and then the parties should actually just get together,
7 and we should just negotiate a schedule picking up after the
8 Markman order is issued. You know, in light of not only these
9 eight patents, I think there is this motion to amend where
01:55 10 there's two more patents that are the subject of WAC's motion
11 at docket entry 73. You know, that needs to be really taken
12 into account as well in terms of what the schedule should look
13 like -- I'll get to that briefly.

14 And, you know, there's also the issue of appeals.
15 There is an appeal -- potential appeals from these IPR
16 decisions that I don't think either side has taken any
17 positions on. I know they're due at approximately 63 days or
18 so from issuance. And to the extent that there are appeals, we
19 should talk offline together to look at whether those somehow
01:55 20 should have any impact on the schedule.

21 But with respect to WAC's position, we believe let's
22 try to get the Markman issues worked out with respect to what
23 your Honor wants to do, and then, you know, in the next couple
24 of weeks we can get together with Philips and try to negotiate
25 a schedule that takes everything into account and submit, you

1 know, another proposed schedule where we can agree and we can
2 identify disputes where there are any. And that would be our
3 proposal for how to deal with the schedule in this case. You
4 know, clearly it's something that we should be trying to
5 negotiate together in light of where we are today, and it
6 should not be done in a situation where we just take this year,
7 or year-and-a-half-old schedule, two-year-old schedule and en
8 masse incorporate it into this case.

9 We are also going to propose in this schedule a date
01:56 10 for mediation, where I think the parties are going to discuss
11 offline -- and we raised it with Philips just before the
12 hearing -- about proposing that we possibly get a magistrate
13 involved upfront, at the very front end of this schedule. To
14 the extent that both parties want to agree and your Honor is
15 willing to do it, we would propose that some magistrate get
16 involved with trying to mediate in light of where we are. We
17 think it's a good juncture for it to happen.

18 THE COURT: Counsel, where do you anticipate that
19 being, after claim construction?

01:57 20 MR. RADULESCU: I think it would be immediately. I
21 think that we would just simply get together with Philips. I
22 think they're going to end up agreeing, there's no downside,
23 and we would just find a magistrate that you would appoint and
24 give us a date certain that all the parties can get together in
25 a room here in the courthouse. I don't think it needs to wait

1 until any claim construction order at this point.

2 THE COURT: Counsel, just to back up for a moment. In
3 terms of the PTAB decisions on the IPR, my memory from perhaps
4 when you were arguing before me from claim construction is
5 those aren't necessarily binding on me, but they can certainly
6 be argued to me as persuasive authority; am I correct about
7 that?

8 MR. RADULESCU: Yes. And I did want to now address
9 exactly that, what we think should happen on claim
01:58 10 construction.

11 Clearly, the record in front of the PTAB is actually
12 part of the intrinsic record of these patents, and the claims
13 need to be construed in light of this intrinsic record. As a
14 matter of law, you have to do it. And it's our understanding
15 that out of the six patents, I believe there were five
16 additional terms that were construed by the PTAB across half of
17 the patents -- where the Patent Office has already construed
18 these five terms across half the patents. We believe that's
19 another factor in terms of trying to, you know, get the Markman
01:59 20 issues straightened out.

21 Our view on how we think it makes sense to proceed is
22 for, again, the parties to simply get together over the next
23 few weeks, let's do a joint claim construction chart similar to
24 what I heard Philips, I think, propose. We would propose a
25 joint statement. Where we can agree, we agree; where we

1 disagree, we will end up disagreeing. With respect to the five
2 additional terms that were construed by the PTAB, the parties
3 will evaluate those as well. But let's do a joint statement so
4 that we can have one document by which the Court can look at
5 and focus on for purposes of this case.

6 Clearly, in connection with the PTAB and the IPR
7 proceedings, there were conflicting positions that were taken,
8 that there are terms where positions taken in front of the PTAB
9 are conflicting with the positions taken in front of the
02:00 10 District Court.

11 We believe the way to proceed after we do this joint
12 statement is to simply put in one more -- put in a brief that
13 allows your Honor to focus on just the two briefs -- we would
14 exchange them, do them simultaneously -- you have two briefs,
15 you have one statement, and in this brief we set forth the
16 arguments as to how the claims should be interpreted in light
17 of the full record, which includes the IPR. And we believe it
18 shouldn't be just a notice, because you need to construe these
19 terms that takes everything into account. And, in fact,
02:00 20 putting you through going back to the four old briefs, going
21 back to I think two sets of slides, it's a lot of assimilation
22 to do. And the concept that you're going to do that with just
23 simply a notice of what happened in the PTAB is pretty tough.
24 There's seven opinions -- six or seven opinions. I couldn't do
25 it. So I don't think it makes any sense for putting the burden

1 on the Court to go through four old briefs, two new notices,
2 two rounds of slides to try to construe these claims, you know,
3 as a matter of law, right. These are issues of law. These are
4 issues of where you got to get it right. And our proposal
5 would be let's do a joint chart. We can do that over the next
6 few weeks. Let's do simultaneous briefing on the disputes, and
7 now you have two briefs, a chart, takes everything into
8 account, and if you want to have a hearing, have a hearing. If
9 you want to just do it based on the briefing, do it based on
02:01 10 the briefing. But at least it gives us the ability to argue
11 why the claims should be construed in a way that we're
12 proposing that actually takes into account the arguments that
13 were, in fact, made before the PTAB, so that you're not stuck
14 going through six decisions trying to figure out which
15 arguments conflict, which ones don't, because you need to get
16 it right. That would be our proposal on claim construction.

17 There is a couple more points to make.

18 (Discussion off the record.)

19 MR. RADULESCU: As Mr. Vardanian points out, what the
02:02 20 patentee says during the PTAB arguments is very important as to
21 what the scope of the claims mean. It's part of the intrinsic
22 record. It's just like reading the regular prosecution history
23 or reading the spec. And I think the burden should be on us to
24 explain the relevance of these statements to the claim
25 construction issues.

1 THE COURT: Okay.

2 Counsel, did you have something else? Yes.

3 MR. RADULESCU: I did.

4 THE COURT: Okay.

5 MR. RADULESCU: So there was a reference to estoppel.

6 There's a reference to, oh, we're estopped from somehow arguing
7 something, and that's wrong.

8 Claim construction, as a matter of law, you need to
9 take all the evidence into account, including the prosecution
02:03 10 history and the IPR record. And we are allowed to argue as a
11 matter of law what the claims mean or don't mean. There's no
12 estoppel for purposes of this case in terms of how the claims
13 should be construed.

14 There is a limited estoppel in connection with
15 validity. For purposes of a jury trial, obviously there may be
16 instances where the defendant is estopped from raising certain
17 validity arguments. It's not all of them, it's some of them,
18 depending upon the specific issues that are being raised.

19 There is absolutely no estoppel on infringement. So
02:04 20 there's no effect of the IPR proceeding that's somehow going to
21 estop WAC, as the defendant, from arguing why there's no
22 infringement in light of the fact that these IPRs were filed.

23 So I just wanted to point out that with respect to the
24 comment on estoppel; it's not as what we heard. We clearly are
25 not estopped from arguing non-infringement, and we clearly

1 aren't estopped from arguing claim construction in light of
2 that intrinsic record.

3 And then I think that brings me to the pending
4 motions, unless there's any other questions you had on the
5 schedule.

6 THE COURT: Your brother identified, I think, Docket
7 43, 73, and 140?

8 MR. RADULESCU: Yes.

9 So there is a -- Philips motion to compel -- which I
02:04 10 thought was Docket 48, but maybe it's 43 -- and we did
11 provide -- after my firm got engaged on this matter, we ended
12 up lobbying in at Docket 140 a Notice of Additional Facts,
13 which simply tried to just make clear to your Honor that we
14 have done what we can to moot disputes, and we obviously are in
15 a position of wanting to negotiate some type of resolution so
16 your Honor doesn't have to be stuck going through an old motion
17 to compel that was done prior to a substantial production of
18 documents that we were involved with doing after we got
19 engaged.

02:05 20 So my suggestion on that on that is give the parties
21 some time to try to negotiate, and if Philips wants to somehow
22 file a renewed motion that's triggered off the actual record
23 that this case exists in at present, that they should do it.
24 But we would hope that we can work it out with Philips to get
25 them whatever information they think they are missing at this

1 point.

2 There is Docket 73, which is a motion to amend the
3 counterclaim. And the history for that one is that Philips
4 asserted two additional patents in their infringement
5 contentions prior to the time that my firm got involved. So it
6 went from an eight-patent case to a ten-patent case through
7 these allegations of infringement. And then they strategically
8 decided we're going to withdraw. We're going to withdraw these
9 contentions on those two additional patents, and it was done
02:06 10 for strategic reasons. And we ended up saying, Well, we
11 shouldn't have to live under this threat of additional
12 infringement claims, so we filed a motion to amend our
13 counterclaim to add them to the case.

14 And I believe that's -- that motion is just sitting
15 out there, and I believe that we should be getting together
16 with Philips when we try to negotiate a schedule to decide if
17 it makes sense to put them in or put them out. Obviously, new
18 patents in the case, you would think, should somehow affect the
19 schedule. And it may be that we can come to an agreement that
02:07 20 somehow takes all of it into account and, you know, at least
21 presents any disputes in a logical way to your Honor where you
22 can look at the big picture, look at all the facts, and have
23 something in front of you in written form that identifies where
24 we are and where we should be going.

25 THE COURT: Thank you, counsel.

1 MR. RADULESCU: You're welcome.

2 THE COURT: Counsel, just to ask you to respond to the
3 timing of mediation, then I'm going to return to the whole
4 claim construction scheduling/briefing issue.

5 MR. RASH: Yes, your Honor.

6 We do -- we are amenable to a mediation, and we're
7 happy to meet and confer on the timing for that. We don't have
8 any reason to delay that. So it's when the parties are
9 available, we're okay with that.

02:08 10 THE COURT: Okay.

11 Counsel, I guess a few things -- and you can be
12 seated. Thank you.

13 First, if both parties are willing, I'll certainly
14 refer you to mediation. I imagine you're going to continue
15 your informal discussions, but given that the magistrates -- I
16 think, Ms. Hourihan -- are scheduling about six weeks out --
17 sooner rather than later makes sense in terms of a referral.

18 Counsel, in terms of the claim construction -- and I
19 had to refresh myself a little on the sequence here, but I do
02:08 20 remember the full-blown claim construction, at least from the
21 Court's point of view. I got pretty far down the road of
22 considering your arguments. So I both don't want to have
23 anyone, including myself, reinvent the wheel. On the other
24 hand, I recognize what came out of the PTAB would be useful and
25 probably necessary for me to consider.

1 I guess, counsel, what I was thinking about as a
2 logistical matter, is I recall that the parties put together a
3 joint chart in regards to their claim construction contentions
4 for the purposes of the Markman hearing. I'm wondering -- or
5 I'm thinking it would be most useful for me if that could be
6 annotated in some way to reflect what the parties' changes in
7 positions are or what additional findings came out the PTAB
8 that you'd want to draw to my attention as to each of the
9 claims. Does that make some sense?

02:10 10 MR. RASH: Yes, your Honor. We'd be willing to do
11 that, and we appreciate your observation in terms of not
12 reinventing the wheel. That's really what we're trying to
13 avoid here, is starting from scratch.

14 THE COURT: I guess what counsel is -- some part of
15 why I suggested the annotating the chart is just because there
16 was a framework that both sides were working with and that I
17 was certainly operating in. It would be useful to know how the
18 PTAB decisions affected that. And I guess I'd be inclined to
19 see that first and then decide if I'm going to allow further
02:10 20 briefing. Obviously counsel should give me the decisions from
21 the PTAB, but I think that would be my first inclination after
22 you perhaps devote your energies, time, and money to the
23 mediation efforts.

24 So, counsel, I don't know how far along you got in
25 terms of discussing what time you were looking for. My

1 inclination would be to refer you to mediation, see what date
2 is set there, and then set a date for this annotated submission
3 at some point after that to allow you enough time to focus on
4 mediation and not have to turn to doing the submission until
5 it's clear that you need to.

6 So, counsel, with that said, I can do the referral
7 now, but in terms of timing, if we assume -- Ms. Hourihan,
8 what's six weeks from today?

9 (Discussion off the record.)

02:12 10 MR. RASH: Excuse me, your Honor. May I just point
11 out that Philips does oppose the mediation to the extent it's
12 going to delay the case. We have been negotiating with WAC
13 since 2010. And so while we are certainly amenable to
14 mediation, we would prefer that WAC not use that as an
15 opportunity to delay the case.

16 THE COURT: Well, I guess, counsel, I'm not sure that
17 it's further -- well, I guess my view is, having this
18 conversation or mediation front-loaded is probably better.
19 But, counsel, do you want to add anything?

02:13 20 MR. RADULESCU: Yeah, I mean, I think, you know, it's
21 clearly not done for delay purposes. It's clearly done to try
22 to do this logical, and, you know, that would be our proposal.

23 THE COURT: Okay.

24 So, counsel, what I'm inclined to do is -- looking at
25 the calendar and just allowing somewhat for the holidays, both

1 for counsel and for the magistrate judge, I'd be inclined to
2 refer you to mediation today and set February 28th -- and that
3 was somewhat counting six weeks from the end of the holidays --
4 for February 28th as the deadline for -- the annotated original
5 claim construction chart to be annotated with the parties'
6 current positions to allow me to see where you are now, and
7 also for submission of the IPR decisions. No further briefing
8 other than -- other than that, counsel. And then what I'd be
9 inclined to do is probably see you sometime in the month of
02:14 10 March. And since you're all here, we can pick a date for that.

11 MS. LASSWELL: Philips is open in March, your Honor.

12 THE COURT: Say it again?

13 MR. RASH: Philips is open in March.

14 MR. RADULESCU: We'll try to make whatever date you
15 propose work.

16 THE COURT: Counsel, just give me a second here.

17 (Discussion off the record.)

18 THE COURT: Okay.

19 March 15th at 3:00, counsel.

02:16 20 So, counsel, I'm inclined to take it in those steps to
21 begin, and I will take a look at the pending motions, which
22 I'll probably also discuss with you when I see you in March.

23 Counsel, anything else I should do at this point?

24 I'll make the referral. Is there any -- well, is there any
25 preference for magistrate judge?

1 MR. RASH: Not from Philips, your Honor.

2 MR. RADULESCU: So we found out, I think this
3 afternoon, that Philips has apparently mediated in front of
4 Judge Sorokin pretty successfully.

5 THE COURT: He's a District Court judge now.

6 MR. RADULESCU: I know that. I don't know if there's
7 any benefit to having someone who has at least been through it
8 once already, but that, again, is something that -- you know --
9 that we can discuss.

02:17 10 THE COURT: Okay.

11 Well, counsel, I'll make the general referral, unless
12 counsel reaches out to Ms. Hourihan with any sort of joint
13 preference. I think the only magistrate it couldn't -- and I
14 should also mention Judge Harrington -- Senior Judge Harrington
15 is also doing mediations. The only magistrate judge I think it
16 can't be, Ms. Hourihan, is Collings, perhaps?

17 (Discussion off the record.)

18 THE COURT: But I think other than that -- because he
19 was, I think, assigned to the case at some point, other than
02:17 20 that it could be anyone. But I think if there's a joint
21 preference, I think they try to accommodate that.

22 MR. RADULESCU: Thank you, your Honor.

23 MR. RASH: Your Honor, if I could just clarify one
24 thing, just to make sure there is no dispute here.

25 It is our understanding that fact discovery will be

1 proceeding here. We also wanted to raise that damages
2 discovery was bifurcated, but we think now is the appropriate
3 time to allow that to proceed. Damages discovery is important
4 at this time to facilitate simplifying the case. When we
5 understand the damages associated with accused products, it
6 allows us to narrow the case as appropriate. We think that can
7 be very helpful going forward before the end of fact discovery
8 and before expert discovery and summary judgment, and we also
9 think that that would help with facilitating settlement.

02:18 10 THE COURT: Well, counsel, I think in some ways that
11 may be defeating the front-loading of mediation, but,
12 counsel --

13 MR. RADULESCU: I think the status quo should -- I
14 guess general fact discovery can proceed. With respect to the
15 damages-related discovery, I think the order said that we're
16 going to wait until we get a Markman decision to sort of start
17 that up. So our preference would be to keep the status quo
18 with respect to damages discovery. I do know that in the
19 context of, you know, settlement negotiations, there has been
02:19 20 some financial information exchanged, and --

21 THE COURT: Counsel, for what it's worth, I mean, I'm
22 inclined to keep the status quo about what is otherwise going
23 on in this case and not jump to formal damages discovery. My
24 memory is, counsel -- and I think each of the magistrates have
25 their own practice -- but there's usually statements that they

1 ask for from either side for the purposes of facilitating a
2 meaningful mediation, and perhaps that's something Philips can
3 raise with the magistrate judge for the purposes of having a
4 fruitful discussion.

5 MR. RASH: Okay.

6 We would appreciate that.

7 THE COURT: Thank you, counsel.

8 MR. RADULESCU: Thank you, your Honor.

9 THE CLERK: All rise.

02:20 10 (Court adjourned at 2:20 p.m.)

11 - - - - -

12 CERTIFICATION

13 I certify that the foregoing is a correct transcript
14 of the record of proceedings in the above-entitled matter to
15 the best of my skill and ability.

16
17
18
19 /s/Debra M. Joyce
20 Debra M. Joyce, RMR, CRR, FCRR
21 Official Court Reporter

January 6, 2017
Date